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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,884	02/11/2004	Jack J. Reilly	IR3709 NP	3393
31684 7590 10/22/2007 ARKEMA INC. PATENT DEPARTMENT - 26TH FLOOR 2000 MARKET STREET PHILADELPHIA, PA 19103-3222			EXAMINER FERGUSON, LAWRENCE D	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 10/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/776,884	Applicant(s) REILLY ET AL.	
	Examiner Lawrence D. Ferguson	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/16/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment mailed August 16, 2007.

Claim 1 was amended rendering claims 1-30 and 32 pending in this case.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Information Disclosure Statement

3. The references disclosed within the information disclosure statement (IDS) submitted on August 16, 2007, has been considered and initialed by the Examiner.

Claim Rejections – 35 USC § 102(b)

4. Claims 1-21, 23-24, 26-30 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Kito et al. (U.S. 5,585,425).

Kito discloses an article comprising two or more layers fused together (in optical contact) having a colored and opaque layer on a transparent (light transmitting) substrate (column 12, line 46-67 and column 13, lines 14-22) where the colored layer, experiences color changes, as in claim 8. It is inherent for at least one edge of the light transmitting layer to appear different in its color when viewed along the edge, which

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would change with respect to the viewing angle and appear to be a mix of the opaque layer and transparent layer, as in claims 1-4. Kito discloses an undercoat layer and/or topcoat layer can be applied to the article (column 13, lines 40-61) which both are made of methacrylate material (column 13, lines 44-52 and column 14, lines 1-12) as in claims 5 and 12. The color layer can be in a transparent state (column 12, lines 46-54) as in claims 6-7. The article is a glass or plastic, with glass or plastic layers (column 21, lines 1-47) comprising acrylic resin and polymethyl methacrylate (column 5, lines 55-65 and column 13, lines 44-52) as in claim 9-11. Kito discloses the article has a three-dimensional form which is applicable to toys and decorative goods (column 25, lines 1-5) as in claims 28-30. Because Kito discloses an article comprising two or more layers fused together (in optical contact) having a colored and opaque layer on a transparent (light transmitting) substrate, the indices of refraction and depth of the article layers are inherent. In claims 19 and 20, the phrases, "by cuts through said layers" and "produced by coextrusion or fusion bonding of said layers" introduces process limitations to the product claims. In claim 23, the phrase, "wherein said two or more layers are coextruded" also introduces a process limitation to the product claim. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966. Further, process limitations are given no patentable weight in product claims.

5. Claims 22 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record does not teach or suggest the recited article further including wherein said interlayer material is a liquid having an index of refraction between about 1.05 and 2.0.

The prior art does not teach motivation or suggestion for modification to make the invention as instantly claimed.

Response to Arguments

6. The rejection made under 35 U.S.C. 102(b) as being anticipated by Palmer et al. (U.S. 5,915,549) is withdrawn due to Applicant amending claim 1 to include "two or more layers in optical contact" as discussed in the interview held on July 19, 2007.

The rejection made under 35 U.S.C. 103(a) as being unpatentable over Palmer et al. (U.S. 5,915,549) and Palmer et al. (U.S. 5,915,549) in view of Church (U.S. 5,622,259) are withdrawn due to Applicant amending claim 1 to include "two or more layers in optical contact" as discussed in the interview held on July 19, 2007.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Ferguson whose telephone number is 571-272-1522. The examiner can normally be reached on Monday through Friday 9:00 AM – 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



L. Ferguson
Patent Examiner
AU 1774



MILTON I. CANO
SUPERVISORY PATENT EXAMINER